

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

NOS. 06-1847, 06-1851, & 06-1852

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IN RE: FREDERICK H. BANKS,

Debtor

FREDERICK H. BANKS,

Appellant

v.

RON A. LABELLA

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IN RE: FREDERICK H. BANKS,

Debtor

FREDERICK H. BANKS,

Appellant

v.

BETTY JO LARGENT; DKT

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IN RE: FREDERICK H. BANKS,

Debtor

FREDERICK H. BANKS,

Appellant

v.

BANK ONE, N.A.

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On Appeal From the United States District Court  
For the Western District of Pennsylvania  
(D.C. Civ. Nos. 05-cv-00612, 05-cv-00616, 05-cv-00617)  
District Judge: Honorable Joy Flowers Conti

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Submitted For Possible Dismissal Under 28 U.S.C. § 1915(e)(2)(B) or Summary Action  
Under Third Circuit LAR 27.4 and I.O.P. 10.6

December 29, 2006

Before: MCKEE, FUENTES AND ROTH, CIRCUIT JUDGES

(Filed April 20, 2007)

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OPINION

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PER CURIAM

On November 1, 2001, Frederick H. Banks filed for bankruptcy protection under Chapter 7 of the Bankruptcy Code. The appointed trustee in bankruptcy filed a report of no assets. In 2005, Banks filed many adversary actions, including the three at issue in these related appeals. The Bankruptcy Court, holding that it lacked subject-matter

jurisdiction over these adversary actions (and others that we do not presently consider) because they related only to post-petition acts unrelated to the administration of Banks' bankruptcy case, dismissed them. Banks appealed to the District Court. The District Court affirmed the order dismissing the adversary actions. Banks appeals.

The District Court had jurisdiction to review the Bankruptcy Court's order pursuant to 28 U.S.C. § 158(a), and we have jurisdiction to review the District Court's order under 28 U.S.C. §§ 158(d) & 1291. We exercise the same standard of review as the District Court, subjecting the Bankruptcy Court's legal determinations to plenary review and reviewing its factual findings for clear error. See In re United Healthcare Sys., 396 F.3d 247, 249 (3d Cir. 2005).

We will summarily affirm because no substantial question is presented on appeal. See L.A.R. 27.4; I.O.P. 10.6. The Bankruptcy Court lacked subject-matter jurisdiction over the three listed adversary actions.<sup>1</sup> Two statutes, 28 U.S.C. §§ 1334 and 157, provide the source of a bankruptcy court's jurisdiction. See Binder v. Price Waterhouse & Co., 372 F.3d 154, 161 (3d Cir. 2004). Under these statutes, and relevant to our analysis here, a bankruptcy court has jurisdiction over those cases “at least “related to” the bankruptcy.” In re Marcus Hook Dev. Park, Inc., 943 F.2d 261, 266 (3d Cir. 1991)

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<sup>1</sup> Although Banks took issue in the District Court with the Bankruptcy Court's action to dismiss his adversary actions sua sponte, as the District Court explained, the Bankruptcy Court was obligated to evaluate its jurisdiction and dismiss the actions over which it lacked jurisdiction.

(citations omitted). Litigation is related to a bankruptcy if its outcome could “conceivably have any effect on the estate being administrated in bankruptcy.” See Pacor, Inc. v. Higgins, 743 F.2d 984, 994 (3d Cir. 1984); see also In re Marcus Hook Dev. Park, Inc., 943 F.2d at 264 (stressing the term “conceivably”). More specifically, an action is related to bankruptcy if its outcome “could alter the debtor’s rights, liabilities, options, or freedom of action (either positively or negatively) and which in any way impacts upon the handling and administration of the bankruptcy estate.” See Pacor, 743 F.2d at 994. The three adversary actions were unrelated to bankruptcy because, as Banks plainly alleged in his complaints, the supposed wrongs occurred in 2002 and 2003, at the earliest, after he had filed for bankruptcy protection. Accordingly, they are not property of the bankruptcy estate such that their resolution would affect the handling or administration of the estate. See In re Bobroff, 766 F.2d 797, 803 (3d Cir. 1985) (citing 11 U.S.C. § 541 for the proposition that “the only property interests of a debtor that become part of the estate are those existing ‘as of the commencement of the case.’”)

In sum, because the Bankruptcy Court lacked subject-matter jurisdiction, we will affirm the order insomuch as it dismissed the three listed adversary actions.